

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, JULY 30, 2004
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:07 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young	Mr. Timothy Johns
Ms. Kathryn Inouye	Mr. Ted Yamamura
Mr. Toby Martyn (arrived 9:50 a.m.)	

STAFF

Ms. Dede Mamiya, Land	Mr. Dawn Hegger, OCCL
Mr. Steve Thompson, DOBOR	Mr. Dan Quinn, State Parks
Mr. Steve Molman, DOBOR	Mr. Walter, Ikehara, DAR
Mr. Eric Hirano, Engineering	Mr. Ron Cannarella, DOFAW
Mr. Eric Yuasa, Engineering	Mr. Peter Garcia, DOT
Mr. Dan Davidson, Deputy	

OTHER

Mr. Vince Kanemoto, Deputy Attorney General	Ms. Mabel Ferreiro-Fujuichi, D-12
Mayor Bryan Baptiste, D-12	Mr. Jerry Rothstein, D-13
Ms. Linnel Nishioka, M-4, K-1	Mr. Tim Tunnison, K-1
Mr. John Deshore, D-13	Mr. William Makanui, D-5
Ms. Susan Kihara, D-1	Mr. Peter Lenhart, D-18
Mr. Robert Reed, D-18	Ms. Joselyn Kaawa, E-4
Mr. Gib Black, D-18	Mr. Douglas Crozier, D-27
Mr. Joshua Stanbro, E-2	Ms. Leimomi Hawkins, D-7
Mr. Robert Naniolo, D-27	

{Note: language for deletion is [bracketed], new/added is underlined}

Item A-1: Minutes of June 18, 2004

Motion to Defer

Unanimously approved to defer (Johns/Inouye).

Item A-2: Minutes of July 9, 2004

Member Johns recused himself

Member Inouye recused herself

No Quorum

Item D-12: Cancellation of Governor's Executive Order No. 3258 to the Department of Accounting and General Services for Multi-Agency Complex Site and Reset Aside to County of Kauai for Adult Transition Facility, Nawiliwili, Lihue, Kauai, TMK: (4) 3-8-05:02.

Ms. Mamiya indicated the Department of Accounting and General Services (DAGS) has been using the subject site for storage and baseyard purposes. Currently DAGS has a lease with the Kauai Economic Opportunity, Incorporated (KEO) for community services. KEO is a non-profit organization. DAGS has requested to be released from the management and control of the subject parcel and that the parcel be set-aside to the County of Kauai. She noted the County of Kauai would be going through the Environmental Assessment process. Ms. Mamiya recommended the Board approve and recommend to the Governor the issuance of an Executive Order canceling the Governor's Executive Order No. 32587 and approve the issuance of an Executive Order setting aside the subject lands to the County of Kauai.

Member Agor recused himself.

Mayor Bryan Baptiste asked the Board for their favorable approval of this item. He noted as more people move on to the island of Kauai the homeless population is growing. Mayor Baptiste spoke of the need for emergency shelter and transitional housing. He made it known the County of Kauai will be taking over the property from DAGS and will in turn lease out the subject parcel to KEO. Mayor Baptiste asked that the term of the lease be worked out between the County of Kauai and KEO.

Mabel Ferreiro-Fujiuchi, director of KEO spoke of the homeless population on Kauai. She made it known in a given year their office comes across approximately six hundred homeless people. Ms. Ferreiro-Fujiuchi feels there is a strong need for an emergency shelter and transitional housing on the island.

The Board amended the Purpose of Set Aside Section to read as follows:

“[Adult] Emergency and Transitional Housing Facility and Related Community Services purposes.”

Unanimously approved as amended by the remaining Board members (Johns/ Inouye).

Item D-2: Consent to Sublease General Lease No. S-5284A Hawaiian Cement, Lessee, to T.M.C. General Contracting, Inc., Sublessee, Pulehunui, Wailuku, Maui, TMK: (2) 3-8-008:por. 031.

Ms. Mamiya pointed out the subject request by Hawaiian Cement seeks to sublease a portion of its premise to TMC General Contracting. TMC intends to clear the area for their production of precast concrete building materials. Ms. Mamiya indicated no sandwich profits were involved. At present the lessee is current on all terms and conditions of the lease. Ms. Mamiya recommended the Board consent to the sublease under General Lease No. S-5284A between Hawaiian Cement and T.M.C. General Contracting.

Unanimously approved as submitted (Yamamura/Johns).

Item M-1: Issuance of an Inconsistent Revocable Permit, the Pasha Group, Kalaeloa Airport, Oahu, TMK: (1) 9-1-13-32P.

Peter Garcia representing the Department of Transportation came forward and recommended the Board authorize the Department of Transportation to issue an inconsistent revocable permit to the Pasha Group.

Unanimously approved as submitted (Inouye/Johns).

Item M-2: Issuance of a Direct Lease to IASS (Hawaii), LLC, Honolulu International Airport, Oahu TMK: (1) 1-1-03-50P.

Mr. Garcia recommended the Board authorized the Department of Transportation to enter into and issue a direct lease to IASS Hawaii subject to the conditions listed in the submittal.

Unanimously approved as submitted (Inouye/Johns).

Item M-3: Issuance of a Direct Lease to Trans Executive Airlines of Hawaii, Inc. Honolulu International Airport, Oahu, TMK: (1) 1-1-03-50P.

Mr. Garcia recommended the Board authorize the Department of Transportation to issue a direct lease to Trans Executive Airlines of Hawaii, Inc subject to the conditions listed in the submittal.

The Board amended the following:

1. Under Minimum Improvement Requirement

“The Lessee shall, within twelve (12) months of the date of commencement of the Lease, invest the sum of not less than [~~\$100,000~~] \$250,000 and complete the renovation, refurbishment and repair of existing aircraft hangar facility . . .”

2. Under Waiver of Rent

“Ground and building lease rents payable to DOT shall be waived at the beginning of the Lease for a period not more than [~~six (6)~~] twelve (12) months or until the Lessee first physically occupies the Premises and uses the Premises for the stated primary purpose(s) of the Lease (beneficial occupancy), whichever occurs first or sooner. It is understood by Lessor and Lessee that Lessee will not be using the leased premises for the Purposes/uses stated under Item 2 of the Character of Use section until Lessee completes the renovation, refurbishment and and/or repair of existing aircraft hangar facility improvements and other fixed improvements on the leased premises.

Unanimously approved as amended (Inouye/Johns).

**Item M-4: Consent to Assignment of Harbor Lease No. H-92-2 From Unocal Through Mesne Assignments to Mid Pac Petroleum, LLC (Hilo Harbor);
Amendment of Revocable Permit H-75-491 From Unocal Through Mesne Assignments to Mid Pac Petroleum, LLC (Kawaihae Harbor).**

Mr. Garcia recommended the Board consent to the Amendment of Revocable Permit H-75-491 to replace Union Oil Company with Mid Pac Petroleum, LLC and assignment of Harbor Lease No. H-92-2 from Unocal by mesne assignments involving corporate reorganizations of ConocoPhillips to Mid Pac Petroleum, LLC.

Linnel Nishioka representing both of the parties noted her agreement with staff’s submittal.

Unanimously approved as submitted (John/Inouye).

Item D-13: Sale of Reclaimed (Filled) Lands to Beth Clark, Trustee of the Big Surf Trust, Kailua-Kona, North Kona, Hawaii, TMK: (3) 7-5-05: seaward of parcel 12.

Ms. Mamiya conveyed that the applicant wishes to withdraw this item, as they are unable to attend today’s meeting. Ms. Mamiya recommended the Board Defer this item.

Jerry Rothstein, President of Public Access Shoreline Hawaii (PASH) asked the Board to deny the sale of the reclaimed lands or at the very least defer making a decision so that more public input on this vital issue can be obtained. Mr. Rothstein invited the Board to conduct a site visit to the subject property before making a decision on this matter. He spoke of the communities hope for the opportunity to have a small footbridge span the “Thurston Channel.” He believes the re-opening of the 5P trail via a small footbridge would be a prime recreational resource not only for local residents but for our visitors as well. Mr. Rothstein went on to bring attention to

some portions of staff's submittal. In closing he requested that the sale of the subject reclaimed lands be denied.

John Deshore of the Office of Hawaiian Affairs deferred his testimony to a date when the item will come before the Board again.

Member Yamamura indicated for the record Representative Bob Nakasone contacted him to extend support for staff's recommendation.

Motion to Defer

Unanimously approved to defer (Yamamura/Johns).

Item K-2: Conservation District Use Application (CDUA) MA-3196 for Light Draft Navigation Improvements located at Kahului, Wailuku, Maui, TMK's: (2) 3-7-001: 021, 022 & 023 and Adjacent Submerged Lands.

Dawn Hegger, Planner for the Office of Conservation and Coastal Lands reminded the Board the applicant previously received approval for this item on September 22, 2000. In the approval process the Board included a condition that required the applicant to initiated construction within one year of receiving approval and because this has yet to transpire, the applicant is here today to explain what is happening. The applicant has since resubmitted another application. Ms. Hegger pointed out upon the completion of the project it would accommodate large boats up to 30 feet in length and allow twice the number of boat launches and retrievals as well as increase protection and safety during boat launching and recovery. The proposed land uses include: Deepening an existing running basin, deepening and lengthening the existing entrance channel, modifying the existing one-lane concrete launch ramp into a three-lane concrete launch ramp, constructing a new breakwater structure, removing an existing rock groin, widening the boat launching access road and improving lighting and landscaping of the area. Ms. Hegger communicated some concern with regards to the removal of live coral in the dredging operations. She noted staff felt that the impacts and mitigations are appropriate for this project. Ms. Hegger recommended the Board approve this application for Conservation district use for light-draft navigation improvements at Kahului Harbor subject to the conditions listed in the submittal.

Eric Yuasa an Engineer with the Engineering Division and project manager told the Board they were unable to begin construction within one-year of the approval date because they were unable to secure the necessary permits. He spoke of how the plans were modified and after each modification they had to go through the review process again. Mr. Yuasa notes the estimated advertisement date is Monday and they plan to open bids by the end of August and award the contract by the September 30th deadline.

Unanimously approved as submitted (Yamamura/Johns).

Item J-1: Consent to Subleases, Harbor Lease No. H-83-2, Kona Fuel & Marine, Inc., a Hawaii corporation, Lessee, by way of assignment of lease from Kona U-

Cart, Inc., to two sublessees, Honokohau Boat Harbor, Kealakehe, Kailua-Kona, Hawaii, Tax Map Key: (3) 7-04-40.

Steve Thompson, Oahu Boating District Manager for the Division of Boating and Ocean Recreation (DOBOR) and Steve Molman, Property Manager for DOBOR came forward to present the above item. Mr. Thompson reminded the Board at its June 14, 2004, meeting the Board approved seven subleases to Kona Fuel and Marine's lease. Subsequent to that meeting they submitted two additional subleases for approval. The subleases would be issued to Catherine Anna Surtees dba Catherine Surtees Marine Art Studio and Kona Realty Inc. The lease would be month to month and there would be no additional money due to the Department. Mr. Thompson recommended the Board consent to the two subject subleases under Harbor Lease No. H-83-2.

The Board questioned why DOBOR came to the conclusion that no additional rent is due to the State from these new subleases.

Mr. Molman pointed out because Kona Fuel & Marine, Inc., built the improvements and there was no specific methodology stated in the lease for the State to collect sublease profits, no additional money would be due to the state.

Unanimously approved as submitted (Johns/Yamamura).

Item K-1: Enforcement File HA-02-01 Twelve Month Update on Habitat and Forest Restoration Plan for Kahuku Ranch, Hawaii, TMK: (3) 9-2-001:002.

Member Johns recused himself.

Ms. Hegger communicated on April 11, 2003 the Board found Damon Estates (Damon) in violation of Chapter 183 for unauthorized Koa Timber Harvesting and in lieu of the fines Damon Estates was given the option to restore the land. On July 25, 2003, the Board approved the Damon's restoration plan with a condition that Damon would conduct semi-annual briefings to the Board during the first year and annually in the second year. Today representatives from Damon and the National Park Services is here to brief the Board on the second phase of the restoration plan.

Linnel Nishioka representing Damon informed the Board with regards to some of the work that has transpired. Ms. Nishioka indicated they have shot over 231 goats and moufloun sheep. She spoke of the success they've had with fencing the subject area. As of today they've fenced the entire area up to section six. Ms. Nishioka pointed out section six which encompasses the last four miles is Federal lands therefore consultation must be done with Fish and Wildlife Services. They anticipate fencing is this area to begin in January 2005. With regards to the ungulate control, due to its tremendous success, Damon Estates has agreed to roll over some excess funds.

Tim Tunison, indicated Damon has provided \$30,000 for the monitoring of the recovery of the koa forest. Mr. Tunison informed the Board their sampling method has pointed out that there has been an increase in seedling from January to June due to an increase in rainfall. He pointed out if the amount of rainfall dramatically decreases we might see a slow down in the rate of growth of the seedling. He also made it known the native trees were beginning to grow and there were no change in the weed species.

No Action.

Item D-17: Grant of Perpetual, Non-Exclusive Easement to Landis and Doris Ornellas for Access and Utility Purposes, Waianae-Kai, Waianae, Oahu, TMK: 8-5-05:16.

Ms. Mamiya disclosed that the applicants purchased parcel 17, which is landlocked within Homestead Lease No. 33. The applicants are here today to request access and utility easement through the homestead lease. Sheila Ikekai, the current lessee of Homestead Lease 33 wrote a letter to the Department agreeing to allow Mr. and Mrs. Ornellas access to their parcel 17 across the homestead lease. Ms. Mamiya recommended the Board authorize the issuance of a perpetual non-exclusive easement to Landis and Doris Ornellas covering the subject area for access and utility purposes.

Unanimously approved as submitted (Inouye/Johns).

Item D-10: Request for Construction Right-of-Entry and Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Bus Bay Purposes, Diamond Head, Honolulu, Oahu, TMK: (1) 6-1-42:por.10.

Ms. Mamiya mentioned the subject land is encumbered by Governor's Executive Order No. 3642 to State Parks as part of the Diamond Head State Monument. The City and County of Honolulu proposes to use the subject site to construct a bus bay so the buses will be able to turn around in this area thereby alleviating traffic backup and to also relocate the existing bus stop. Comments were solicited from various agencies but no significant comments were received. Ms. Mamiya recommended the Board grant a perpetual, non-exclusive easement to the City and County of Honolulu covering the subject area for access and utility purposes.

Morris Watanabe of the City Department of Transportation Services was present.

The Board amended:

- 1) The Title of the submittal and the Location Section by changing the Tax Map Key from (1) 6-1-042: portion 10 to (1) 3-1-042: portion 10 and**
- 2) The Character of Use Section to read as follows:**

“Right, privilege and authority to construct, use, maintain and repair a [~~right of way~~] bus bay and shelter over and across State-owned land.”

Unanimously approved as amended (Inouye/Johns).

Item D-1: Consent to Enter into a License Agreement with the County of Maui (Lessor), and the State of Hawaii, by its Board of Land and Natural Resources, on behalf of the Department of Health (Lessee), Covering a Particulate Ambient Air Monitoring Station at Hale Piilani Park, Kihei, Wailuku, Maui, TMK: (2) 3-8-004: por. 031.

Ms. Mamiya communicated the subject area will be used for the operation of an air monitoring station in Kihei. She revealed to the Board there were no other State lands in the area that met the federal siting criteria. Ms. Mamiya recommended the Board consent to the License Agreement between the County of Maui and the State of Hawaii.

Susan Kihara of the Department of Health was on present.

Unanimously approved as submitted (Yamamura/Johns).

Item D-25: Grant of Perpetual, Non-Exclusive Easement to Six-K Saddle City LLC, For Access and Utility Purposes, Situated at Government (Crown) Land of Waimanalo, Waimanalo, Koolaupoko, Oahu, Tax Map Key:4-1-013;por 1, 18, 21, and 22.

Ms. Mamiya indicated the requested easement is over a road known as “Saddle City Road.” The road was originally a utility easement that was paved by the City after a flood a few years ago and is not an official right-of-way. She also made it known the road crosses over privately owned lands. Six-K Saddle City, LLC. is currently in the process of communicating and reaching an agreement with those property owners. Because the land is a kuleana the rent will be gratis. Ms. Mamiya recommended the Board authorize the issuance of a perpetual, non-exclusive easement to Six-K Saddle City, LLC. covering the subject area for access and utility purposes.

Roy Catolani appeared on behalf of Six-K Saddle City, LLC. He questioned the Board whether there was a need for an appraisal since the rent would be gratis.

The Board amended the Applicant Requirements Section by deleting

“1) Pay for an appraisal to determine one-time payment.”

Unanimously approved as amended (Inouye/Johns).

Item D-5: Set Aside to the Water Board of the County of Hawaii for DHHL’s Makuu Offsite Water System, Makuu, Popoki, and Halona, Puna, Hawaii, TMK: (3) 1-5-08: por. of 01.

Ms. Mamiya briefed the Board by noting the Department of Hawaiian Home Lands (DHHL) has identified the need to develop additional potable water for its Makuu Farm and Agricultural Lots back in 1996. At that time an environmental assessment was prepared. She made it known upon completion of the project, the water system will be dedicated over to the County of Hawaii. Ms. Mamiya recommended the Board approve and recommend to the Governor the issuance of an Executive order setting aside the subject area to the Water Board of the County of Hawaii and grant an immediate construction and management right-of-entry to the DHHL and Water Board of the County of Hawaii.

William Makanui of the Department of Hawaiian Home Lands was present.

Unanimously approved as submitted (Johns/Yamamura).

Item D-18: Amend Prior Board Action of August 24, 2001, Item D-29; Issuance of Leases for Private Residential Non commercial Piers Pursuant to Kaneohe Bay Piers Amnesty Program, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-4-37:02.

Ms. Mamiya reminded the Board on August 24, 2001, the Board approved the issuance of 150 leases for private residential non-commercial pier purposes pursuant to the Kaneohe Bay Piers Amnesty Program. Robert Reed (lot 13A2) and then owner of lot 13B were covered by this approval. In 1995 lot 13 was subdivided into Lot 13A2 (owned by Reed), 13A1 (owned by Gilbert Black and 13B (owned by Donald and Virginia Thayer). Through the subdivision of the subject three parcels an eight (8) feet wide beach right-of-way over lot 13B was reserved. Ms. Mamiya pointed out there are three piers abutting the shoreline property namely a wood pier, Pier A and Pier B. The wood pier is within the boundary of Parcel 2 while portions of Pier A is built makai of the boundary of parcel 2. Under the Amnesty Program Mr. Reed and later Mr. Black submitted an application for continued use of the pier A. When a survey map was provided to the Department it was realized that Mr. Reed was not the fee abutting owner (he only has rights to the beach right-of-way). Peter Lenhart, an attorney representing the Thayers is objecting to the issuance of a lease to Mr. Reed. Ms. Mamiya indicated staff believes the lease should be held jointly by all parties to avoid conflicts. Therefore, staff wrote to all parties and told them an approval would proceed provide all parties could agree. The Thayers rejected the Department's suggestion. Ms. Mamiya recommended the Board amend its prior action of August 24, 2001, agenda item D-29 by rescinding the approval for the issuance of lease to Robert Reed for private residential noncommercial pier purpose. Ms. Mamiya understood the Thayers will remove Pier A upon the rescission of Reed's approval.

Robert Reed owner of Lot 13A2 told the Board he believes the law (Act 261) did not specify that he owner of the pier application had to be the abutting fee property owner. He made it known he has had the right to use the pier for the last fifty (50) years. Mr. Reed pointed out they have continuously used pier A. When asked by the Board if he would have a problem indemnifying the Thayers for use of the pier, Mr. Reed responded in the affirmative because he believes his easement gives him the right to use the pier.

Peter Lenhart, attorney for the Thayer's testified before the Board. Mr. Lenhart gave the Board a brief overview on how the easement was created. He noted there were two easement both of which were different. He pointed out the right-of-way was for beach access only and not for use of the pier. Mr. Lenhart informed the Board the Thayer's proposes to cut off the 1.89 feet that extends onto State waters thereby not requiring a State permit. He made it known the Thayer's have concern with regards to their liability and having a say in what they can do with their land. Mr. Lenhart notes if the State allows the issuance of a lease for the 1.89 feet of pier on State land are they saying that the Thayer's do not have the right to remove the portion of the pier on their property. With regards to Act 261, Mr. Lenhart believes the State needs to follow due process requirements when it adopted this program. The State would need to determine a set of rules and apply the rules to all property owners. He feels the adoption of specific rules by the Department would help property owners assess who can apply for leases.

Gib Black owner of property 13A1 testified before the Board. He informed the Board the subject pier has been in place and has been used for the past fifty (50) years. He told the Board he is willing to share in the cost of liability insurance in exchange for use of the dock. He asked the Board to continue to allow himself and the Reed's to use the subject dock.

Ms. Mamiya informed those in attendance if the three property owners were able to come to an agreement by June 30, 2005, they as a group would be able to apply for a permit to use the 1.89 feet of pier on state property.

**Approved as submitted (Inouye/Johns).
Chairperson Young voted No.**

Item E-4: Establishment of Curatorship Agreement for Portion of Former Lo'i Kalo, Makiki Valley State Recreation Area, Oahu.

Dan Quinn, Administrator for State Parks told the Board the Curator Program began as a joint effort of the Historic Preservation Division and State Parks to encourage community involvement in the care and management of historic and cultural sites. Joslyn Kaawa a resident of the Maunalaha community has volunteered to manage the area. This management will include maintenance of the terraces, removal of selected vegetation accompanied by planting of some native plants. Ms. Kaawa will be submitting a landscaping and interpretive plan. Lastly the Division of Forestry and Wildlife will be assisting Ms. Kaawa with the identification of existing trees and with interpretive materials. Mr. Quinn recommended Ms. Kaawa and her ohana be approved as the curators for a portion of Makiki Valley State Recreation Area for a 5-year term.

Joselyn Kaawa was present to answer any questions.

Unanimously approved as submitted (Inouye/Martyn).

Item E-2: Section of Projects for Federal Grant Awards through the Land and Water Conservation Fund Program for Fiscal Year 2004.

Member Johns recused himself.

Mr. Quinn communicated the Land and Water Conservation Fund Program (LWCF) which is a Federal grant program administered by the Department of the Interior has made funds available to expand outdoor recreational opportunities. The Division of State Parks has been the lead agency in accepting applications and making a preliminary selection. Mr. Quinn made it known this year's appropriation of funds is \$966,727 with an additional \$742,741 carryover from a previous year. The agency receiving this grant must provide matching funds. Also in order to qualify to receive these funds, Hawaii must prepare a Statewide Comprehensive Outdoor Recreation Plan every five years. The four projects that meet Hawaii's recreational demands and priorities are: State Parks \$400,00 for design and construction of restroom and related park improvements at Diamond Head State Monument; State Parks \$600,000 for the acquisition of a 1.25 acre parcel long Alii Drive in North Kona which will be added to Keolonahihi State Historical Park; County of Kauai \$42,000 installation of new playground equipment at Hanapepe Heights and Cliffside; and City & County of Honolulu \$667,468 for the acquisition of 1,129 acres in Pupukea-Paumalu for preservation of natural landscape, development of recreation opportunities, and promotion of community stewardship and education. Mr. Quinn recommended the Board approve the four projects to receive LWCF grant funds in FY04 subject to final approval by the National Park Service.

Joshua Stanbro of Trust for Public Land was present.

Unanimously approved as submitted (Martyn/Inouye).

Item E-1: Request from Hospice of Hilo to use the Large Pavilion and a Portion of the Wailoa River State Recreation Area in Hilo, Hawaii for a Fundraiser Walk Entitled "A Walk to Remember".

Item E-3: Request to Amend Previous Board Submittal of December 12, 2003, (Agenda Item E-2) for Approval to Issue, Evaluate, Accept and Select Request for Qualifications/Request for Proposals (RFQ/RFP) to Develop, Operate, and Maintain Public Recreational Facilities at Malaekahana State Recreation Area, at La'ie, Oahu

Unanimously approved as submitted (Johns/Martyn).

Item D-27: Issuance of Direct Lease to the Sylvester Foundation for Animal Sanctuary Purposes, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-13:31.

Dan Davidson, Deputy Director of Land believes this item will provide a fair and equitable solution for the Sylvester Foundation to continue operation in Waimanalo. Mr. Davidson indicated a revocable permit for a portion of the subject area has been issued to the Honolulu Community Action Programs for a community garden. This revocable permit will be terminated upon the execution of a lease to the Sylvester Foundation. As part of the Sylvester Foundation's lease the Honolulu Community Action Programs will be able to continue with the

community garden. Mr. Davidson recommended the Board authorize the issuance of a direct lease to Sylvester Foundation covering the subject area.

Member Inouye questioned which type of appraiser will be used and how long will it take for the subject parcel to be appraised. Mr. Davidson noted we would be using a staff appraiser and felt the process would move along quickly. He went on to say the Sylvester Foundation would be given a right-of-entry to the area until the lease is executed. The right-of-entry would allow the Sylvester Foundation to bring their animals to the subject parcel using the front two acres. Prior to the execution of the lease, Mr. Davidson made it known the Sylvester Foundation would be under the Honolulu Community Action Programs revocable permit.

Motion made at 11:01 a.m. by Member Johns made and second by Member Inouye to move into Executive Session to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities.

Motion to move into Executive Session

Unanimously approved to move into Executive Session (Johns/Inouye).

The meeting was reconvened at 11:20 a.m.

Douglas Crozier legal counsel for the Sylvester Foundation came forward to note their agreement with staff's recommendation.

Robert Naniole representing the Honolulu Community Action Programs appeared before the Board and conveyed they were looking forward to working with the Sylvester Foundation.

The Board amended:

1) The Annual Rent Section to read as follows:

“~~[Nominal rent to be determined by the Chairperson.] Market rent for single family dwelling; market rent for animal sanctuary use based upon agricultural pasture valuation, both to be determined by staff or independent appraisal and subject to review and approval by the Chairperson.~~”

2) The Recommendation Section by adding a new paragraph 4 to read as follows:

“4. The Lease shall be executed within six months.”

Unanimously approved as amended (Inouye/Johns).

Item D-28: Set Aside to University of Hawaii for Pier Purposes, Kaneohe, Koolaupoko, Oahu, TMK (1) 4-6-001:015 seaward.

Ms. Mamiya pointed out the applicant is currently in the process of curing their violations on Coconut Island. Recently staff met with Jan Yokota the Director of Capital Improvements at

the University of Hawaii to deal with the outstanding violation. Ms. Mamiya recommended the Board approve and recommend to the Governor the issuance of an executive order setting aside the subject lands to University of Hawaii under the terms and conditions cited in staff's submittal.

Unanimously approved as submitted (Johns/Agor).

Item D-7: Forfeiture of Revocable Permit No. S-6258, Jose and Corazone Gaceta, Permittee, Ahupuaa O Kahana State Park, Koolauloa, Oahu, TMK: 5-2-02.

Ms. Mamiya briefed the Board and recommended the Board authorize the cancellation of Revocable Permit No. S-6258 in the manner specified by law.

Leimomi Hawkins, daughter of the permittee let it be known her sister will have an insurance binder, which would be ready by Wednesday. She asked the Board for a time extension.

The Board amended the Recommendation Section by allowing the Permittee 30 days to cure all defaults otherwise the permit shall be canceled as outlined in the submittal.

Unanimously approved as amended (Johns/Yamamura).

Item D-26: "The Board will go into Executive Session Pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in Order to Consult with its Attorney on the State's Negotiations in Fulfilling the Court Order in Napeahi v. State, Civil No. 85-1523 (U.S. District Court)."

Chairperson Young recused himself.

Motion made at 11:27 a.m. by Member Johns and second by Member Martyn to move into Executive Session to consult with the board's attorney pursuant to Section 92-5(a)(4), HRS on the States negotiations in Fulfilling the Court Order in Napeahi v. State.

Motion to move into Executive Session

Approved to move into Executive Session by the remaining Board Members (Johns/Martyn).

The meeting was reconvened at 11:50 a.m.

Item D-6: Forfeiture of Revocable Permit No. S-6631, Violet LaFontaine, Permittee, Pupukea-Paumalu Beach Lots, Pupukea, Koolauloa, Oahu, TMK: 5-9-03:69.

Motion to Withdraw

Unanimously approved to Withdraw (Johns/Yamamura).

- Item D-3:** Amend Prior Board's Action of March 25, 2004, Agenda Item D-4, by Including an Additional Set Aside to be Amended or Replaced, Resulting in the Inclusion of Adjacent Beach and Coastal Areas with the Division of State Parks Jurisdiction at Makena State Park, Mooloa, Makawao, Maui, TMK: (2) 2-1-006:102 and seaward.
- Item D-4:** Issuance of Right-of-Entry Permit to the Federal Highway Administration and Okahara & Associates Inc., at Kaumana, Piihoonua, Ponahawai and Upper Waiakea, South Hilo, Hawaii, TMK: (3) 2-4-08:1, 4 & 8; 2-5-01:2, 6 & 8; 2-5-02:1 & 14; 2-5-03:20, 44 & 80; and 2-6-18:4 & 10.
- Item D-8:** Rescind Prior Board Action of March 25, 2004, Agenda Item D-6 for Sale of Remnant; Grant of Term, Non-Exclusive Easement for Access and Utility Purposes to William A. Lydgate, por. Kapaa Homesteads, 2nd Series, Kapaa & Waipouli, Kawaihau, Kauai, TMK: (4) 4-4-04:por. 03.
- Item D-9:** Rescind Land Board Approval of 3/28/2003, Item D-14; Forfeiture of Revocable Permit No. S-1387, James Corr (deceased), Permittee, Hanapepe, Kauai, TMK: (4) 1-8-05:07 and 2.
- Item D-11:** Cancellation of Governor's Executive Order No. S-3534 and Set Aside to Department of Water County of Kauai for Potable Water Well, Kapaa, Kawaihau, Kauai, TMK: (4) 4-5-15:06 & 28.
- Item D-14:** Sale of Lease at Public Auction for Business, Commercial or Industrial Purposes, Waiakea, South Hilo, Hawaii, TMK: (3) 2-1-06:66.
- Item D-15:** Sale of Lease at Public Auction for Business, Commercial or Industrial Purposes, Waiakea, South Hilo, Hawaii, TMK: (3) 2-1-16:33.
- Item D-16:** Resubmittal: Grant of Term, Non-Exclusive Easement to Lily Yee Wong Revocable Living Trust for Seawall Purposes; Kualoa, Koolaupoko, Oahu, TMK: (1) 4-9-09:19 seaward.
- Item D-19:** Quitclaim of State's Interests, if Any, in Laumaka and Kaluaopalena Streets to the City and County of Honolulu, Kalihi, Honolulu, Oahu; TMK: (1) 1-2-26:roads.
- Item D-20** Amend Prior Board Action dated July 10, 1992, Item F-2 County of Hawaii Request for Direct Grant of Easement for Sewer Line and Sewage Pump Station Site: Waiakea South Hilo, Hawaii, TMK: (3) 2-2-29: por. of 01.
- Item D-21:** Issuance of Revocable Permit to Moses K. Kauhaahaa, IV, Kahakuloa, Wailuku, Maui, TMK: (2) 3-1-04:09 & 14.

- Item D-22:** Amend Prior Board Action of June 9, 2000 (Agenda Item D-11) Grant of Perpetual, Non-Exclusive Easement and Issuance of Construction Right-of-Entry to Verizon Hawaii Inc. (formerly GTE Hawaiian Telephone Company Incorporate) for Utility Purposes at Kaohe, Hamakua, Hawaii, TMK: (3) 4-4-16:por. of 05 & 06.
- Item D-23:** Consent to Assign Grant of Easement No. 5123, James T. Posner, Trustee of the James T. Posner Trust 2001 dated October 9, 2001, Assignor, to Floyd A. Miller, Jr. Trustee under the Floyd Miller Revocable Trust dated January 16, 1998, Assignee, Honolulu, Oahu, TMK: (1) 3-1-35: por. 23.
- Item D-24:** Consent to Mortgage and Extension of Lease Term, General Lease No. S-3770, Hiroshi Ikene and Sallie Ikene, Lessees, Waimanalo, Koolaulupo, Oahu, Tax Map Key:4-1-027:25.

Unanimously approved as submitted (Johns/Yamamura).

- Item F-1:** Request for Approval to Amend DLNR/UH Contract No. 47261 for Improvement of Bottomfish Stocks: Phase III (7/1/04-6/30/05).

Unanimously approved as submitted (Johns/Martyn).

- Item L-1:** Approval for Award of Construction Contract – Job No. G23CM11A, Central Maui (Maui Meadows) Exploratory Well, Wailea, Maui.
- Item L-2:** Approval for Award of Construction Contract – Job No. F59C626A Kaumahina State Wayside New Comfort Station Honomanu, Maui, Hawaii.
- Item L-3:** Approval for Award of Construction Contract – Job No. J00CB61A, Kaunakakai Harbor ADA Barrier Removal Project Molokai, Hawaii.
- Item L-4:** Approval for Award of Construction Contract – Job No. J00CB44A, Kihei Boat Launching Facility ADA Barrier Removal Project Maui, Hawaii.
- Item L-5:** Approval for Award of Construction Contract – Job No. J00CB45A, Maalaea Small Boat Harbor ADA Barrier Removal Project Maui, Hawaii.
- Item L-6:** Approval for Award of Construction Contract – Job No. J00CB48A, Mala Boat Launching Facility ADA Barrier Removal Project Maui, Hawaii.
- Item L-7:** Approval for Award of Construction Contract - Job No. H09C602A, Kokee State Park Driveway and Parking; Job No H09C602B, Kokee/Waimea Canyon State Park Roadway Improvements and Job No. F00BF46B, Kokee State Park: Resurface Roadways, Kauai, Hawaii.

- Item L-8: Approval for Award of Construction Contract - Job No. F46C732B
Kokee/Waimea Canyon State Park Water System Improvements, Kokee-
Waineke and Kokee Well A-1 Exploratory Wells, Kauai, Hawaii.**
- Item L-9: Approval for Award of Construction Contract – Job No. F46C732A
Kokee/Waimea Canyon State Park Water System Improvements, Kauai,
Hawaii.**
- Item L-10: Approval for Award of Construction Contract – Job No. F54B658A Malae
Heiau Restoration, Wailua River State Park, Kauai, Hawaii.**
- Item L-11: Approval for Award of Construction Contract – Job No. J00CF31A Wailua
River State Park Fern Grotto ADA Barrier Removal Wailua, Kauai,
Hawaii.**
- Item L-12: Approval for Award of Construction Contract – Job No. J00CF54A2,
Wailua River State Park, Wailua River Marina, ADA Barrier Removal
Phase II Wailua, Kauai, Hawaii.**
- Item L-13: Approval for Award of Construction Contract – Job No. F31C605A,
Wailua River State Park, Sewer System Improvements and ADA Walkway
at Fern Grotto, Kauai, Hawaii.**
- Item L-14: Approval for Award of Construction Contract – Job No. 500BO35A
Demolition, Debris Loading, Hauling and Disposal at TMK: 3-4-15:27,
Oahu.**
- Item L-15: Approval for Award of Construction Contract – Job No. GO9CK12A
Kapaa Homestead Well No. 3 Development, Kauai, Hawaii.**
- Item L-16: Approval for Award of Construction Contract – Job No. 500BO41C Old
Puunui Quarry Rockfall Mitigation – Phase I, Oahu.**
- Item L-17: Approval for Award of Construction Contract – Job No. F00BF37A
Construct New Comfort Station, Diamond Head State Monument
Honolulu, Oahu, Hawaii.**
- Item L-18: Approval for Award of Construction Contract – Job No. H09C616B Sand
Island State Recreation Area Sewer System Improvements Honolulu, Oahu,
Hawaii.**
- Item L-19: Approval for Award of Construction Contract – Job No. B76DO70A
Haleiwa Boat Harbor, Replacement, Repairs and Improvements, Oahu.**
- Item L-20: Approval for Award of Construction Contract – Job No. J00CB75A,
Waianae Small Boat Harbor ADA Barrier Removal Project Oahu, Hawaii.**

- Item L-21:** Approval for Award of Construction Contract – Job No. J00CB08A, Honokohau Small Boat Harbor ADA Barrier Removal Project Kona, Hawaii.
- Item L-22:** Approval for Award of Construction Contract – Job No. J00CB10A, Kawaihae Harbor ADA Barrier Removal Project South Kohala, Hawaii.
- Item L-23:** Approval for Award of Construction Contract – Job No. B02DH70A, Wailoa Boat Harbor Improvements Hilo, Hawaii.
- Item L-24:** Approval for Award of Construction Contract – Job No. J00CF75A, Hapuna Beach State Park ADA Barrier Removal Project South Kohala, Hawaii.
- Item L-25:** Approval for Award of Construction Contract – Job No. J00CH47A, Old Kona Airport ADA Barrier Removal Project Kona, Hawaii.
- Item L-26:** Approval for Award of Construction Contract – Job No. J00CF58A, Wailoa River State Park ADA Barrier Removal Project Hilo, Hawaii.
- Item L-27:** Approval for Award of Construction Contract – Job No. H09C649A, Hapuna Beach State Recreation Area Improvements, South Kohala, Hawaii.
- Item L-28:** Approval for Award of Construction Contract – Job No. H09C636A Mauna Kea State Recreation Area Water System Improvements Pohakuloa, Hawaii.

Unanimously approved as submitted (Johns/Yamamura).

- Item C-1:** Request Approval of Contract with Ms. Denise Laitinen to Coordinate the Federally Funded Assistance Function of the Hawaii Firewise Program for the Division of Forestry and Wildlife.
- Item C-4:** Request Approval of Contract with Ms. Jacqueline Rayla to Coordinate the Federally Funded Volunteer/Technical Assistance Function of the Urban and Community Forestry Program for the Division of Forestry and Wildlife.
- Item C-5:** Request Approval of Contract with Ms. Teresa Trueman-Madriaga to Coordinate the Federally Funded Urban and Community Forestry Program for the Division of Forestry and Wildlife.

Motion to Withdraw

Unanimously approved to withdraw (Johns/Yamamura).

Item C-2: Request for Approval to Enter into A One-Year Contract with AML 7 ATS Inc., DBA Valley Isle Fencing to Repair and Replace a Predator-Exclusion Fence at Kanaha Pond Wildlife Sanctuary, Maui.

Item C-3: Request for Approval of DLNR Radio System Maintenance Contract with Pacific Wireless Communications.

Unanimously approved as submitted (Johns/Agor).

There being no further business, Chairperson Young adjourned the meeting at 11:53 a.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

Terry Crowell

Approved for submittal:

PETER T. YOUNG
Chairperson
Department of Land and Natural Resources

